

ABX

**Notice of Allowability**

Application No.

10/003,075

Examiner

Kevin S Wood

Applicant(s)

CAPEWELL ET AL.

Art Unit

2874

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Applicant's Amendment filed 15 September 2003.
  2. ☒ The allowed claim(s) is/are 1-22.
  3. ☒ The drawings filed on 31 October 2001 are accepted by the Examiner.
  4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) ☐ All b) ☐ Some\* c) ☐ None of the:
      1. ☐ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received: \_\_\_\_\_.
5. ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
    - (a) ☐ The translation of the foreign language provisional application has been received.
  6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_\_.
  - (b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the Examiner.
  - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

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| <ol style="list-style-type: none"> <li>1 <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</li> <li>2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>3 <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No. _____</li> <li>4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material</li> </ol> | <ol style="list-style-type: none"> <li>5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</li> <li>6 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____</li> <li>7 <input type="checkbox"/> Examiner's Amendment/Comment</li> <li>8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance</li> <li>9 <input type="checkbox"/> Other</li> </ol> |
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*Ben Healy*

## **ALLOWANCE**

### ***Response to Amendment***

1. This Office Action is responsive to the Applicant's Amendment filed 15 September 2003. Claims 1-3, 21 and 22 are now amended. Claims 23-38 are canceled. Claims 1-22 are pending within the Application.

### ***Response to Arguments***

2. Applicant's arguments, filed 15 September, with respect to the drawings have been fully considered and are persuasive. The objection to the drawings has been withdrawn.

3. Applicant's arguments, filed on 15 September 2003, with respect to claim 1 have been fully considered and are persuasive. The rejection of claim 1 under 35 U.S.C. 112, second paragraph, has been withdrawn. The amendment to claim 1 has overcome this rejection.

4. Applicant's arguments, filed 15 September 2003, with respect to claim 20 have been fully considered and are persuasive. The rejection of claim 20 has been withdrawn. The examiner agrees that the prior art reference (U.S. Patent No. 6,269,203 to Davies et al.) does not disclose all the limitations of the claimed invention.

### ***Allowable Subject Matter***

5. Claims 1-22 are allowed.

6. The following is an examiner's statement of reasons for allowance:

Referring to claims 1-12, the prior art does not disclose the combination of all the limitations of the claimed invention. The primary reason for allowance is the limitation that the aspheric lens serves to at least one of collimate the redirected light beam and focus the light beam before being redirected. U.S. Patent No. 6,20,154 to Amirkhanian et al. discloses a device, in Fig. 3-4, that is similar to the claimed invention where light from an optical fiber (18) is redirected through a prism (62) to a hemispherical lens (74) that focuses the light. Due to the nature of the device disclosed by Amirkhanian et al. being a surgical probe, it would not have been obvious to have the lens (74) collimate the light from the fiber. It would also not be obvious in view of the reference to direct light into the lens (18) to be focused and redirected into the fiber.

Referring to claims 13 and 14, the prior art does not disclose the combination of all the limitations of the claimed invention. The primary reason for allowance is the limitation that the light from the source is an elliptically shaped beam, before being redirected by a cylindrically curved base, the redirected light beam being collimated into a substantially circular beam by the aspheric lens. U.S. Patent No. 4,883,333 to Yanez discloses a similar device in Fig. 5C, where a light source (11) provides a light that is redirected by a prism (17) through a lens (18) where the light was collimated. It would not have been obvious to modify the invention of Yanez so that the source (11) provided an elliptically shaped beam. It would also not be obvious to form the prism (17) with a curved base in order to redirect the beam so that the beam became circular.

Referring to claims 15-22, the prior art does not disclose the combination of all the limitations of the claimed invention. The primary reason for allowance is the

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limitation that the spacer is located between the wedge element and the aspheric lens and wherein the subassembly is integrated as a single part using injection-molding techniques. U.S. Patent No. 6,269,203 to Davies et al. discloses a device in Fig. 4 that is similar to the claimed invention. It would not have been obvious in view of this reference to rearrange the lens (74) and prism (72), so that the spacer (62) is located between the lens and prism.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin S Wood whose telephone number is (703) 605-5296. The examiner can normally be reached on Monday-Thursday (7am - 5:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rodney B Bovernick can be reached on (703) 308-4819. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 307-0956.



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